



COUNTY OF LOS ANGELES
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MARY C. WICKHAM
County Counsel

January 30, 2019

TO: CELIA ZAVALA
Executive Officer
Board of Supervisors

Attention: Agenda Preparation

FROM: ELIZABETH D. MILLER 
Assistant County Counsel
Sheriff's Services Team

RE: **Item for the Board of Supervisors' Agenda**
County Contract Cities Liability Trust Fund
Claims Board Recommendation
John Clyde Warner v. County of Los Angeles, et al.
United States District Court Case No. 2:18-CV00388

Attached is the Agenda entry for the Los Angeles County Contract Cities Liability Trust Fund Claims Board's recommendation in the above-referenced matter. Also attached is the Case Summary and the Summary Corrective Action Plan for the case.

It is requested that this recommendation, the Case Summary, and the Summary Corrective Action Plan be placed on the Board of Supervisors' agenda.

EDM:js

Attachments

Board Agenda

MISCELLANEOUS COMMUNICATIONS

Settlement for Matter Entitled John Clyde Warner v. County of Los Angeles, et al.

Los Angeles County Contract Cities Liability Trust Fund Claims Board's recommendation: Authorize settlement of the matters entitled John Clyde Warner v. County of Los Angeles, et al., United States District Court Case No. 2:18-CV00388 in the amount of \$150,000 and instruct the Auditor-Controller to draw a warrant to implement this settlement from the Sheriff's Department Contract Cities Trust Fund's budget.

This lawsuit involves allegations of false arrest and battery by Sheriff's Deputies.

CASE SUMMARY

INFORMATION ON PROPOSED SETTLEMENT OF LITIGATION

CASE NAME	John Clyde Warner v. County of Los Angeles, et al.
CASE NUMBER	2:18-CV-00388
COURT	United States District Court
DATE FILED	January 23, 2018
COUNTY DEPARTMENT	Sheriff's
PROPOSED SETTLEMENT AMOUNT	\$ 150,000
ATTORNEY FOR PLAINTIFF	Erin Darling, Esq.
COUNTY COUNSEL ATTORNEY	Lana Choi
NATURE OF CASE	<p>Plaintiff John Clyde Warner alleges that on December 24, 2016, Deputies from Santa Clarita Valley Station arrested him for trespassing and thereafter assaulted and battered him while booking him, causing injuries that required hospitalization for three days.</p> <p>Given the risks and uncertainties of litigation, a full and final settlement of the case in the amount of \$150,000 is recommended.</p>
PAID ATTORNEY FEES, TO DATE	\$ 18,910
PAID COSTS, TO DATE	\$ 1,066

Case Name: John Warner v. County of Los Angeles, et al.



Summary Corrective Action Plan

The intent of this form is to assist departments in writing a corrective action plan summary for attachment to the settlement documents developed for the Board of Supervisors and/or the County of Los Angeles Claims Board. The summary should be a specific overview of the claims/lawsuits' identified root causes and corrective actions (status, time frame, and responsible party). This summary does not replace the Corrective Action Plan form. If there is a question related to confidentiality, please consult County Counsel.

Date of incident/event:	
Briefly provide a description of the incident/event:	<p style="text-align: center;"><u>John Warner v. County of Los Angeles, et al.</u> Summary Corrective Action Plan 2018-031</p> <p>On December 24, 2016, Santa Clarita Valley Station received a call of trespassing at Walmart. Two uniformed deputy sheriffs responded to the call and made contact with a Walmart asset protection associate at the location.</p> <p>The asset protection associate advised that deputy sheriffs had responded for a previous incident involving the plaintiff on December 18, 2016. During the previous incident, the plaintiff was known to be living in his truck with an attached camper in the parking lot of the location. The store manager asked the asset protection associate to make contact with all persons living in their vehicles in the parking lot and request them to move to another section of the parking lot.</p> <p>Note: The location has frequent problems with homeless people living out of their vehicles in the parking lot. The manager has concerns with the homeless people as they frequently leave trash and human bodily waste in the parking lot near their vehicles.</p> <p>On December 18, 2016, when the asset protection associate made contact with the plaintiff at his camper, the plaintiff became hostile, belligerent, and threatened to harm him. In addition to his hostility, the plaintiff (a male white) made harsh racist slurs to the asset protection associate (who is an African American). The asset protection associate contacted the Santa Clarita Sheriff Station to report the incident and two deputy sheriffs responded. Based on the plaintiff's lack of cooperation and hostile behavior, the asset protection associate served the plaintiff with a "Notification of Restriction from Property," with the deputy sheriffs as a witness. When the plaintiff refused to sign his acknowledgement of the document, he was verbally advised of the restrictions and advised he was no longer authorized or welcome at the location. The plaintiff was warned if he returned to the location he would be in violation of trespassing and could be arrested. The plaintiff then left the location.</p> <p>On December 24, 2016, the asset protection associate saw the plaintiff in the store at the location. Due to the prior hostile confrontation with the plaintiff, the asset protection associate did not approach the plaintiff, but called the Santa Clarita Sheriff Station to report the trespassing violation. Prior to the deputy sheriff's arrival, the plaintiff exited the store and entered his camper in the location's parking lot, but did not leave.</p>

	<p>The asset protection associate contacted the first and second deputy sheriffs and provided documentation that the plaintiff had been previously advised not to return. The asset protection associate signed a private person's arrest form requesting the deputy sheriffs arrest the plaintiff for trespassing.</p> <p>Due to the plaintiff's known hostilities, the first deputy sheriff notified a field sergeant, who then responded to the location. The deputy sheriffs made contact with the plaintiff as he was still in his camper, in the parking lot of the location. The plaintiff stepped out of his camper and was subsequently arrested for trespassing, without any significant incident. The deputy sheriffs handcuffed the plaintiff and seated him in the backseat of their patrol vehicle. The sergeant left the location.</p> <p>While wrapping up the incident at the location, the plaintiff increasingly became more agitated and began yelling profanities at the deputy sheriffs. While in the backseat, the plaintiff kicked the rear passenger glass window of the patrol vehicle twice. The deputy sheriffs ordered the plaintiff to stop kicking and the plaintiff complied.</p> <p>The plaintiff then slipped his handcuffs underneath his buttocks, and moved his hands from behind his back to the front of his body. The plaintiff then clenched his hands together and struck the rear passenger glass window several times, causing both his hands and the handcuffs to strike the window. After the deputy sheriffs repeatedly ordered the plaintiff to stop, he stopped hitting the window, but remained aggressive and belligerent. The plaintiff shouted, "I'm gonna fuck you up."</p> <p>Fearing the plaintiff could break the window, the deputy sheriffs requested the sergeant to return to the location. Upon arrival, the sergeant spoke to the plaintiff and was able to calm him down. The deputy sheriffs transported the plaintiff to Santa Clarita Valley Station for booking and the sergeant followed.</p> <p>Upon arrival at Santa Clarita Valley Station, the deputy sheriffs escorted the relatively cooperative plaintiff into the male booking cell. When asked to spread his legs for searching, the plaintiff became uncooperative and tensed up his body. The plaintiff was verbally abusive and yelled profanities at both deputy sheriffs and shouted, "Once you take these cuffs off, I'm going to fuck you up. I'm gonna take both of you out."</p> <p>Note: Both deputy sheriffs felt the plaintiff's threat was only due to his frustration for being arrested. Because he had not made any actual threatening actions towards them they did not fear he was an immediate threat of violence against them.</p> <p>As the second deputy sheriff was searching him, the plaintiff turned his head to the right and faced the second deputy sheriff. The plaintiff's face came within a few inches of the second deputy sheriff's face and posed an officer safety risk. The first deputy sheriff grabbed the back of the plaintiff's neck and turned the plaintiff's face forward, towards a wall, in an attempt to improve officer safety for the second deputy sheriff. With his handcuffs secured in the front, the plaintiff raised his arms above his shoulders while he was being searched. The first deputy sheriff grabbed the plaintiff's wrist and pulled his arms down toward his waist area to prevent him from having an easy ability to assault them.</p>
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	<p>During the search, the second deputy sheriff removed the plaintiff's socks from his feet and placed them on the ground. Upon completion of the search, the second deputy sheriff had the plaintiff sit on a fixed metal stool as she removed his handcuffs. The second deputy sheriff opened the inner booking cell door, and directed the plaintiff to pick up his socks and go inside. The plaintiff picked up his socks with his right hand. As the plaintiff turned to walk into the booking cell, he quickly threw his right arm back towards the second deputy sheriff's face and released the socks. The plaintiff's hand came close to the second deputy sheriff's face but the socks struck the second deputy sheriff in the face.</p> <p>Note: Because the plaintiff's hand came close to the second deputy sheriff's face, and the second deputy sheriff felt something impact his face, the second deputy sheriff thought the plaintiff had struck him in the face with his hand.</p> <p>Due to the plaintiff's battery against him, the first deputy sheriff tackled the plaintiff as he entered the open cell and took him to the ground. Both deputy sheriffs engaged the plaintiff and struggled with him on the ground, while attempting to control and re-handcuff him. During the struggle, the first deputy sheriff felt the plaintiff bite his right hand. The first deputy sheriff reacted to the bite by hitting the plaintiff one time in the face with an open palm.</p> <p>As they continued to struggle, the plaintiff attempted to pull the first deputy sheriff's hands toward his (the plaintiff's) face. Fearing he was attempting to continue to bite him, the first deputy sheriff hit the plaintiff an additional four times in the face with an open palm. The palm strikes caused the plaintiff to stop fighting and allowed both deputy sheriffs to control and handcuff the plaintiff. The plaintiff was then moved to a secure booking cell.</p> <p>The sergeant was outside the booking cell and witnessed the described incident. After the plaintiff attacked the first deputy sheriff, the sergeant directed uninvolved personnel to enter the cell and assist the two deputy sheriffs. By the time the uninvolved personnel entered the cell, the plaintiff had already been handcuffed and was no longer attacking or resisting.</p>
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1. Briefly describe the **root cause(s)** of the claim/lawsuit:

A **Department** root cause in this incident was the first deputy sheriff failing to adequately de-escalate the plaintiff's actions.

Another **Department** root cause in this incident was the first deputy sheriff failing to maintain a tactical position of advantage with the plaintiff in the booking cell, precipitating a use of force.

Another **Department** root cause in this incident was the sergeant failing to notify the watch sergeant and/or watch commander that an uncooperative person, the plaintiff, was being transported to the station.

Another **Department** root cause in this incident was the sergeant failing to supervise or record the escort and/or search of the plaintiff.

Another **Department** root cause in this incident was the sergeant failing to critically evaluate the tactics leading up to and during the handling, search, and use of force upon the plaintiff.

Another **Department** root cause in this incident was the sergeant failing to assume command and control during an incident where he was present when his subordinates used force upon the plaintiff.

A **non-Department** root cause in this incident was the plaintiff threatening the deputy sheriffs and assaulting the first deputy sheriff.

2. Briefly describe recommended corrective actions:

(Include each corrective action, due date, responsible party, and any disciplinary actions if appropriate)

This incident was initially investigated by representatives of the Sheriff's Department's Internal Affairs Bureau (IAB) as a Category 3 use of force. The results of the investigation were scheduled to be presented to the Executive Force Review Committee (EFRC) for adjudication on September 21, 2017.

Prior to EFRC, it was determined the incident was a Category 2 use of force and did not rise to the level of an EFRC review. Upon Department executive review and adjudication, it was determined some of the employee's actions in this incident were in violation of Department policy. Appropriate administrative action was taken.

County of Los Angeles
Summary Corrective Action Plan

3. Are the corrective actions addressing Department-wide system issues?

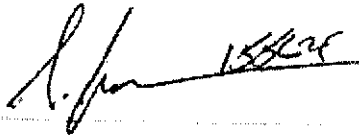
- ☐ Yes – The corrective actions address Department-wide system issues.
☒ No – The corrective actions are only applicable to the affected parties.

Los Angeles County Sheriff's Department

Name: (Risk Management Coordinator)

Scott E. Johnson, Captain
Risk Management Bureau

Signature:



Date:

12-11-18

Name: (Department Head)

Scott W. Gage, A/Chief
Professional Standards and Training Division

Signature:



Date:

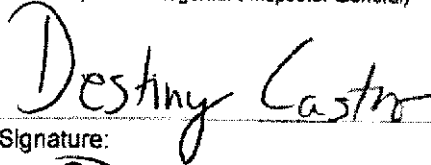
12/12/18

Chief Executive Office Risk Management Inspector General USE ONLY

Are the corrective actions applicable to other departments within the County?

- ☐ Yes, the corrective actions potentially have County-wide applicability.
☒ No, the corrective actions are applicable only to this Department.

Name: (Risk Management Inspector General)



Signature:



Date:

12/13/2018